

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

HARRY E. MILLER

Criminal No. 21-61

FILED

FEB 16 2021

INDICTMENT MEMORANDUM

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

AND NOW comes the United States of America, by its attorneys, Scott W. Brady, United States Attorney for the Western District of Pennsylvania, and Shardul S. Desai, Assistant United States Attorney for said District, and submits this Indictment Memorandum to the Court:

I. THE INDICTMENT

A federal grand jury returned a 3-count indictment against the above-named defendant for alleged violations of federal law:

<u>COUNTS</u>	<u>OFFENSE/DATE</u>	<u>TITLE/SECTION</u>
1	Transmission of a Threat Communication Interstate On or about August 19, 2019	18 U.S.C. § 875(c)
2-3	Transmission of a Threat Communication Interstate On or about January 7, 2020	18 U.S.C. § 875(c)

II. ELEMENTS OF THE OFFENSES

A. As to Counts 1-3:

In order for the crime of Transmitting a Threat Communication Interstate, in violation of 18 U.S.C. § 875(c), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. That the defendant knowingly and willfully made a threat to kidnap any person or to injure the person of another.

United States v. Himelwright, 42 F.3d 777, 782 (3d Cir. 1994); United States v. Cox, 957 F.2d 264 (6th Cir. 1992); United States v. DeAndino, 958 F.2d 146 (6th Cir. 1992); Title 18, United States Code, Section 875(c).

2. That the threat was “true threat” to injure the person of another

United States v. Himelwright, 42 F.3d 777, 782 (3d Cir. 1994); United States v. Cox, 957 F.2d 264 (6th Cir. 1992); United States v. DeAndino, 958 F.2d 146 (6th Cir. 1992); Title 18, United States Code, Section 875(c).

3. That the threat was communicated in interstate commerce.

United States v. Cox, 957 F.2d 264 (6th Cir. 1992); United States v. DeAndino, 958 F.2d 146 (6th Cir. 1992); Title 18, United States Code, Section 875(c).

III. PENALTIES

A. As to Counts 1-3: Transmitting a Threat Communication Interstate

(18 U.S.C. § 875(c)):

1. A term of imprisonment of not more than five (5) years.
2. A fine of not more than \$250,000.
3. A term of supervised release of not more than three (3) years.
4. Any or all of the above.

IV. MANDATORY SPECIAL ASSESSMENT

A mandatory special assessment of \$100.00 must be imposed at each count upon which the defendant is convicted, pursuant to 18 U.S.C. § 3013.

V. RESTITUTION

Not applicable in this case.

VI. FORFEITURE

Not applicable in this case.

Respectfully submitted,

SCOTT W. BRADY
United States Attorney

/s/ Shardul S. Desai
SHARDUL S. DESAI
Assistant U.S. Attorney
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